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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TALECE INC., a Delaware corporation,
Plaintiff,
v.
ZHENG ZHANG, an individual
Defendants.

Case No. 5:20-cv-03579-BLF

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Civil Local Rule 16-9

Date: May 6, 2021
Time: 11:00 AM
Place: Courtroom 3

Judgn: Hon. Beth Labson Freeman

Pursuant to Northern District of California Civil Local Rule 16-9, the parties to the above-titled action hereby submit this Joint Management Conference Statement in advance of the conference now scheduled for May 6th, 2021 at 11:00 A.M.

1. JURISDICTION AND SERVICE

Plaintiff's Statement: In Plaintiff's previous Motion to Remand, this Court has decided that it possesses diversity jurisdiction over this action.

Defendants' Statement: This Court has already decided that both personal jurisdiction and subject matter jurisdiction are proper. See ECF 23.

2. FACTS

Plaintiff's Statement: Talece Inc. ("Plaintiff" or "Talece") is a corporation incorporated under the laws of the State of Delaware, registered to do business in the State of California as a foreign corporation. It is an e-commerce website platform specializing in the construction and architectural design industry, with its principal California officer located at 4500 Great America Pkway., Santa Clara, CA 95054. Defendant Zheng Zhang ("Defendant") served as CEO and CFO of Talece from approximately February 4, 2019 to February 14, 2020.

Throughout his tenure as CEO and CFO, Defendant committed numerous breaches of fiduciary duties, as well as acts of finance conversion and self-benefit that has harmed Plaintiff greatly. Utilizing his exclusive access to Talece's company account, he transferred Plaintiff's funds to Buildsimhub Inc. and Tech Prefab Inc, companies that he co-founded. He has also used Plaintiff's software, website codes, and other non-financial assets to enrich his company and himself. Defendant has also entered into at least one contract—Michael Yao's contract is the only one Talece is currently aware of—where he only accounted for a fraction of the client's payment in Talece's January 2020 annual statement. Furthermore, he did not inform his successor about the contract until his departure. Thus, Talece was unable to fulfill the contract and was left open to legal action by client. He also knowingly entered a construction contract with the client despite knowing that Talece does not have the license to do so.

1 Defendant has also refused to provide Talece shareholders with an accounting, although
 2 they have made numerous requests. Because of this, Plaintiff has little to no financial
 3 information regarding the company's transactions during Defendant's time of employment.

4 For these reasons, Plaintiff has brought this action in order to recover damages and
 5 ascertain the potential effects of Defendant's breaches of duty, conversion, and lack of disclosure
 6 against Plaintiff and shareholders.

7 **Defendants' Statement:** Talece Inc. ("Talece") is a corporation with the goal of
 8 utilizing software to allow users to design single-family homes on their computers and then have
 9 a building company build the customized home after paying Talece. When Defendant Zhang was
 10 creating Talece Inc., he had the goal of making building customization in the building
 11 construction industry less arduous for a layperson and more economical. Defendant Zhang was
 12 CEO of Talece from December 2018 to February 2020. Around December 2018, Mr. Ming
 13 Zhang and Defendant Zhang agreed to work together towards this goal. Mr. Ming Zhang became
 14 the majority shareholder, and Defendant Zhang, Mr. Weili Xu, and Mr. Haopeng Wang became
 15 minority shareholders. The partnership involved Mr. Ming Zhang agreeing to provide starting
 16 capital to incorporate and maintain Talece while Defendant Zhang provided priceless sales
 17 expertise through leveraging his contacts in the San Francisco Bay Area construction industry, as
 18 well other parts of the United States, to gather resources for Talece.

19 Although the partnership seemed like a good idea, it quickly collapsed. Mr. Ming Zhang
 20 used an unorthodox, pushy, confrontational management style that clashed with the personable
 21 business approach of Defendant Zhang, the other key officers, and shareholders. Consequently,
 22 corporate officers Defendant Zhang, Mr. Xu, and Mr. Wang resigned. They believed Talece
 23 would not survive in the United States with Mr. Ming Zhang's hostile and poor management.
 24 After Defendant Zhang, Mr. Xu, and Mr. Wang resigned, Mr. Ming Zhang has been exacting
 25 personal revenge on each of them. First, Mr. Ming Zhang tried to hold a last-minute shareholder
 26 meeting to fire them and usurp their peaceful resignations. Second, Mr. Ming Zhang filed a false
 27 police report with the Santa Clara Police Department alleging that Defendant Zhang embezzled
 28 corporate funds. This case was quickly closed, lacking a legal and factual basis. Lastly, after his

1 futile police report, Mr. Ming Zhang is now shrouding himself with the corporate veil to file this
2 lawsuit against Defendant Zhang under Talece's name.

3 3. LEGAL ISSUES

4 **Plaintiff's Statement:** Plaintiff alleges complaints of 1) breach of fiduciary duties; 2)
5 unjust enrichment; and 3) conversion against Defendant. Plaintiff further requests that Defendant
6 provide an accounting of the company's daily operations and finances during Defendant's tenure
7 as CEO and CFO of Talece.

8 **Defendants' Statement:** Legal issues in this dispute include (1) Defendant Zhang's
9 alleged breach of fiduciary duty to Talece and its shareholders in regards to company finances;
10 (2) Defendant Zhang's alleged unjust enrichment; (3) Defendant Zhang's alleged conversion of
11 Talece's assets and property; (4) Defendant Zhang's alleged failure to return business records
12 and account information; and (5) whether Plaintiff is entitled to punitive damages, costs,
13 expenses, and reasonable attorney's fees.

14 Defendant Zhang intends to file counterclaims against Talece, the majority shareholder
15 Ming Zhang and Talece's Secretary Lanhai Su for breach of fiduciary duty and breach of implied
16 covenant of good faith and fair dealing, based on the fact that Talece received more than \$85,000
17 PPP loans in 2020 and 2021, but Lanhai Su and Ming Zhang have not provided an accounting of
18 this \$85,000 PPP loan to any of Talece's shareholder.

19 4. MOTIONS

20 **Plaintiff's Statement:** Defendant has filed a Motion to Dismiss for Failure to State a
21 Claim under FRCO 12(b)(6) against Plaintiff's First Amended Complaint. Plaintiff has submitted
22 its opposition. It is scheduled to be heard without need for oral argument on April 29, 2021.
23 However, if the Court finds Plaintiff's complaint inadequate in its pleadings, Plaintiff has, in its
24 opposition, requested that the Court grant it an opportunity to amend.

25 **Defendants' Statement:** There is one pending motion before the Court: Defendant's
26 second motion to dismiss.

27 5. AMENDMENT OF PLEADINGS

Plaintiff's Statement: In response to the Court's agreement with Defendant's first Motion to Dismiss—where the Court allowed Plaintiff to amend—Plaintiff has submitted its First Amended Complaint. Pending the Court's decision on Defendant's second Motion to Dismiss, Defendant has not yet filed an answer.

Defendants' Statement: Defendant has not filed an answer yet, pending the Court's ruling on the 12(b)(6) motion to dismiss.

6. EVIDENCE PRESERVATION

Plaintiff's Statement: Plaintiff's counsel requests that Defendant preserve all electronic files relating to Talece Inc. and his transactions with Talece that are in its possession. The parties have not yet met and conferred in regard to steps to be taken to preserve and exchange evidence.

Defendants' Statement: Defendant's Counsel is requesting Plaintiff preserve all electronic files relating to Talece that are in possession of Plaintiff and its majority shareholder Ming Zhang. The parties have not yet met and conferred about the proportionate steps to be taken to preserve evidence.

7. DISCLOSURES

Plaintiff's Statement: Plaintiff has complied with the initial disclosure requirements of Fed. R. Civ. Pro. 26.

Defendants' Statement: Defendant has complied with the initial disclosure requirements of Fed. R. Civ. Pro. 26.

8. DISCOVERY

Plaintiff's Statement: Plaintiff anticipates propounding written discoveries and video conference depositions on Zheng Zhang, as well as other potential persons with knowledge of the issues at trial. Plaintiff is currently responding to Defendant's first set request for production of documents.

Defendants' Statement: Defendant propounded Request for Production, Set One on Plaintiffs. On April 15, 2021, Plaintiffs served their response. Defendant found Plaintiffs' response deficient and conducted a meet and confer conference with Plaintiff's Counsel. Plaintiff's served their amended response on April 23, 2021. Defendant founded Plaintiff's

1 amended response remain deficient and incomplete. Defendant conducted a second meet and
 2 confer conference with Plaintiffs' Counsel on April 26. Plaintiffs' Counsel Leon Jew agreed to
 3 submit their second amended response by May 7, 2021.

4 9. **CLASS ACTION**

5 This is not a class action.

6 10. **RELATED CASES**

7 **Plaintiff's Statement:** Parties in this case share representatives with those of parties in
 8 the current case Buildsimhub v. Beijing Jianyi et al., case no. 5:20-cv-09098-EJD. The Court
 9 headed by the Hon. Beth Labson Freeman ultimately concluded by order that the two cases are
 10 not related enough to be joined together.

11 **Defendants' Statement:** Defendant is not aware of any cases related to the present case.

12 11. **RELIEF SOUGHT**

13 **Plaintiff's Statement:** Plaintiff seeks judgment against Defendant for 1) at least
 14 \$250,000, the loss that Plaintiff sustained as a result of Defendant's malfeasance; 2) any other
 15 profit Defendant received a proximate result of Defendant's malfeasance; 3) Plaintiff's costs that
 16 it has spent in pursuing this action, including attorney's fees, accountant and expert fees, and
 17 other associated costs; 4) punitive damages as this court deems suitable; 5) any other further
 18 relief as this Court deems proper and necessary.

19 **Defendants' Statement:** Defendant Zhang seeks dismissal of this case. The damages
 20 sought by Plaintiff in this suit are improper. Plaintiff has not provided any basis on which its
 21 alleged damages are calculated.

22 If this case is not dismissed in its entirety, Defendant plans to file counterclaims against
 23 Talece, Mr. Ming Zhang, and Ms. Lanhai Su and seeking recovery for damages resulting from
 24 Talece, Ming Zhang, and Lanhai Su's breach of fiduciary duties, breach of contract and implied
 25 covenant of good faith and fair dealing.

26 12. **SETTLEMENT AND ADR**

27 **Plaintiff's Statement:** Parties have exchanged settlement discussions and have been
 28 unsuccessful in resolving the issues independently. Furthermore, a settlement conference on

1 April 16, 2021, directed by the Hon. Virginia K. DeMarchi, was unable to result in a resolution
 2 between parties. Plaintiff remains willing to participate in future ADR sessions for early
 3 resolution.

4 **Defendants' Statement:** Defendant has made an offer of global settlement. That is—
 5 each party walks away from all pending lawsuits that they have against each other and their
 6 associated entities.

7 Plaintiff refused, insisting on an approximate \$230,000 payment.

8 On April 16, 2021, Defendant participated in the settlement conference held by
 9 Magistrate Judge Virginia K. DeMarchi. Defendant provided detailed corporate documents
 10 supporting Defendant's defense that Plaintiffs' alleged embezzlement was past expenses which
 11 were acknowledged and approved by Plaintiffs. However, Plaintiffs ignored those proofs and
 12 insisted on an unreasonable demand with no factual or legal basis. The case did not settle.
 13 Although Defendants remain willing to participate in ADR for early resolution, it seems that this
 14 case should be resolve by a jury trial as soon as possible to avoid further delays.

15 13. **CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

16 **Plaintiff's Statement:** Plaintiff has consented to a Magistrate Judge's authorities for
 17 certain motions.

18 **Defendants' Statement:** Defendant Zhang is willing to consent to Magistrate Judge for
 19 certain motions.

20 14. **OTHER REFERENCES**

21 This case is not suitable for reference to binding arbitration, a special master, or the
 22 Judicial Panel on Multidistrict Litigation.

23 15. **NARROWING OF ISSUES**

24 **Plaintiff's Statement:** Plaintiff has gone through an independent informal audit of its
 25 finances and was unable to obtain additional information that would allow Plaintiff to narrow the
 26 issues at hand.

27 **Defendants' Statement:** Defendant Zhang believes Talece should review all corporate
 28 documents Defendant transferred before this lawsuit and conduct internal accounting and

auditing so that it can understand where its funds were spent, before making false accusations about Defendant has misused those funds. After the accounting and auditing, Defendant is confident that Plaintiff would feel obligated to retract its legal claims.

16. EXPEDITED TRIAL PROCEDURE

Plaintiff's Statement: Defendant has requested that Plaintiff stipulate to an expedited trial. However, it is Plaintiff's position is that this case is not suitable to be handled under the expedited trial procedure. In parties' prior CMC statement, it was both parties' position that this case is not suitable to be handled under the expedited trial procedure.

Defendants' Statement: On April 21, 2021, Defendant requested Plaintiffs' Counsel a stipulation on an expedited trial. During the phone call, Plaintiffs' Counsel Leon Jew agreed on an expedited trial, agreed a five-day trial will be appropriate, and delivered that he will go back to look at his calendar and propose a trial date. Based on Plaintiffs' consent on an expedited trial, Defendant later on April 21, 2021, sent Plaintiffs a proposed expedited trial agreement. Plaintiff never replied to Defendant.

Defendant asks Plaintiff to sign the agreement to the expediate trial procedure, as its lawyer has already agreed to.

17. SCHEDULING

Plaintiff's Statement: Plaintiff believes the efforts to schedule the close of discovery, the hearing of dispositive motions, expert-witness disclosure and trial will be necessary and/or more productive if parties fail to reach an agreement through early settlement conference.

Defendants' Statement: Defendant proposes the following dates:

Tasks	Deadlines
Non-expert cut-off date	May 31, 2021
Expert discovery cut-off date	May 31, 2021
Dispositive motions	August 31, 2021
Jury Trial	September 31, 2021

18. TRIAL

Plaintiff's Statement: Plaintiff believes that a jury trial of the claims and any potential counterclaims would take five days.

Defendants' Statement: Defendant Zhang estimates that a jury trial of the claims and potential counterclaims would take two to three days.

19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

Plaintiff's Statement: Plaintiff has submitted its Corporate Disclosure Statement and Certificate of Interested Entities as required by FRCP 7.1 and Local Rule 3-15.

Defendants' Statement: Defendant has submitted his Corporate Disclosure Statement and Certificate of Interested Entities as required by FRCP 7.1 and Local Rule 3-15.

20. PROFESSIONAL CONDUCT

Plaintiff's Statement: Plaintiff's counsel Leon E. Jew has reviewed the Guidelines for Professional Conduct for the Northern District of California.

Defendants' Statement: Defense counsel has reviewed the Guidelines for Professional Conduct for the Northern District of California.

21. SUCH OTHER MATTERS AS MAY FACILITATE THE JUST, SPEEDY AND INEXPENSIVE DISPOSITION OF THIS MATTER

As of the filing of this Joint Case Management Conference Statement, the parties are unaware of any other matters that may facilitate the just, speedy, or inexpensive disposition of this matter.

Dated: April 29, 2021

/s/Leon E. Jew
Leon E. Jew
Attorney for Plaintiff

/s/Zheng Liu
Zheng Liu
Attorney for Defendant